THE WEEKLY NATIONAL INTELLIGENCER.

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ARMY COURT MARTIAL.

SATURDAY, DECEMBER 11-THIBTY-VIRST DAY. The Court met at the hour of ten o'clock; all

Lieut. Col. Fremon't presented the following paper:

"Mr. President: Lieut. Col. Fremont is instructed by
his counsel to say that they feel great embarrassment from the
decision of the Court of yesterday in excluding the question
which was last offered. That question was in these words:

Do you know of any circumstances which induced you to believe that you were detained in California by the interference
of Gen. Kearny? If so, what were those circumstances?

And the decision of the Court was in these words: 'The
Court consider the question irrelevant, and that it cannot be
put.'

"The counsel are of opinion that it is relevant, but will not The counsel are of opinion that it is relevant, but will not argue against the opinion of the Court. At the same time they put into the hands of Lieut. Col. Fremont, to be offered to the Court, a statement from Major Gillespie showing what the substance of the answer would be if the question were put. And the counsel further instruct Lieut. Col. Fremont to say And the counsel infiner instruct Lieut. Col. Fremont to say
that his statement is offered merely to show the relevancy of
the question offered, and not to show its effect, believing that
the effect and sufficiency of the answer to the question, if admitted, belongs to a different stage of the trial, and is to be
judged in connexion with any other testimony going to the
same point.

"J. C. FREMONT,
"Lieut. Colonel Mounted Rifles."

The following is the paper submitted in connexion with the

The following is the paper submitted in connexion with the above, but this paper was not read:

"Upon reporting to Commodore Biddle, in accordance with his orders, and having informed him of my peculiar position in the country, he informed me, or rather said to me, "I have nothing to do with you, you can return to the United States when you please." Agreeably to this I made my preparations to leave Monterey, to proceed to the Sacramento to make every thing ready for our journey over the Sierra Tevada and the prairies to the United States. All things being in readiness, I was to start from Monterey on the 1st of June, which was Sunday. At \$\frac{1}{2}\$ o'clock on Saturday night, just as I had returned on board of the Congress, I was informed by the Commodore's orderly that Lieut. Stanley, of the Columbus, wished to see me on deck. Lieut. Stanley informed me that 'the had been directed by Commodore Biddle to say to me that he (Com. B.) ordered, 'that having understood that I was to leave Monterey on the following morning, I should not leave the town'until forther orders; and that he (Lieut. S.) had been directed by the Commodore to search for me on

shore, had he not found me on board of the Congress."

"Considering this order very harsh and inconsiderate, after what Commodore Biddle had told me, and having my preparations made, my horses and mules having preceded me in advance one day's journey through a country much infested by Indians, and having only a small guard of three men with them, although the hour was late, I determined to wait upon Commodore Biddle immediately, and, if possible, obtain a revocation of this sudden order. Commodore Stockton kindly granted me a boat, and I hurried to the Columbus. As I arrived at her stairs, (accommodation ladder,) Colonel Mason pushed off in one of the Columbus's cutters just as the bell struck two, (nine P. M.) I sent my card to Commodore Biddle, who, I was informed by Lieut. Madison Rush, officer of the deck, had been aroused from his bed to see Col. Mason, and was then in his dressing gown. Commodore Biddle saw me, and, after having stated to him my surprise at receiving his order, I begged him to allow me to proceed, as it not only interfered with my preparations but that the season was advancing.

"Commodore Biddle said the bed had been was advancing."

"Commodore Biddle said 'he had just received a letter from General Kearny, and, as he wished to avoid any further difficulties between the army and navy, he desired me to re-main.' I replied, that if General Kearny had any charges to make, he had better make them in public; that I was open to main.' I replied, that if General Kearny had any charges to make, he had better make them in public; that I was open to any investigation, and that I could not imagine why he wished to interfere with my movements. Commodore Biddle said 'he did not wish to argue the question.' I told him I did not, but that I was placed in a disagreeable and annoying position. Commodore Biddle then said, 'You have a house in the Pueblo.' I told him yes, and I could not see how my private affairs could affect the question. 'Well,' said he, 'you must remain until further orders.' I then left him. I remained at Montercy. After three days' delay, during which time the Indians once got possession of my animals, twelve very fine mules and six horses, and were rescued through the bravery of a sergeant of the late battalion, (Jones,) I was permitted to of a sergeant of the late battalion, (Jones,) I was permitted to leave Monterey, first pledging my word of honor not to say interey, first pledging my word of honor not to say about General Kearny, for the performance of which Commo fore Stockton went my security.

The Court was cleared. When it was again opened the Judge Advocate stated its decision to be as follows

"The Court having heard the paper just read by Lieut. Col. Fremont, ordered that its decision of yesterday be recon-Col. Fremont, ordered that its decision of yesternay sidered, and that Lieut. Col. Fremont be invited to explain to

ter under trial.

"The Court cannot, however, hear the paper from Captain Gillespie, offered by Licut, Col. Fremont in explanation of the relevance of the question of yesterday. This would be not only to admit on its record the testimony in substance, whether relevant or irrelevant, but to admit an intimation from a witness what would be his testimony on an assumed inquiry."

Col. Fremont put in a paper stating that he would cheer fully comply with the invit ion of the Court, but would wish day to prepare the explanation referred to; mean while he did not wish to interrupt the delivery of the tes

The examination of Major GILLESPIE was resumed. Question. You spoke of several orders vesterday and some

letter of your own in answer to them; will you please to produce such orders or letter Answer. I have them at my quarters, but not here; I will

bring them on Monday.

At the request of the Judge Advocate the Court was clear ed, he having a paper to submit to the Court. When the doors were again opened the Judge Advocate read the follow-

Mr. President: As we have now, on the 31st day of the ses sion of the Court, apparently only as yet opened the defence— having up to this time examined and cross-examined only three witnesses for the prosecution, and introduced one other to allow the defence the opportunity to cross-examine him, and having as yet examined and cross-examined for the defence only three witnesses, and as there remain behind, I believe, yet to be called for the defence, some fifteen or more witnesses—I propose hereafter, when a witness is called, to ask the defence to state hereafter, when a witness is called, to ask the defence to state specifically what is expected to be proved by such witness. Then, is all cases, where I am informed that the facts are as the defence suppose them to be, I shall, with leave of the Court, admit them as proved. Where I am not so informed and I am not at liberty to make such admission, the defence can proceed to the proof. But in either case, and before either admission or proof, the Court will have the opportunity to decide the relevancy of the evidence offered to the case under trial.

trial.

The taking of testimony in the way we are pursuing, in a The taking of testimony in the way we are pursuing, in a case so involved as this, must be attended with tedious delays, from the number of witnesses yet to be called, the necessary objections to testimony, the frequent clearing of the Court on isolated points of evidence and single questions, the number of separate discussions and decisions in closed session, one after another. Much less time, it is obvious, will be required to emsider evidence in a body than in such detail. To the deconsider evidence in a body than in such detail. To the defence the mode I propose can only be an advantage, inasmuch as the relevancy and effect of testimony will be more apparent to the Court when its end is reached than when the object is only aimed at in the opening of the examination. In the present way, it is possible, objections may be raised and evidence ruled out because the object of it is not sufficiently disclosed. Minor points the defence and the Court apparently let go by rather than take up time in arguments and decisions.

"I think, on the whole, it is manifest that we shall, in the mode proposed, receive the evidence of the defence in a better.

mode proposed, receive the evidence of the defence in a better, more connected, and more condensed form, and that we shall proceed more rapidly, and in a clearer order, to the decision of the case—a result which Lieut. Col. Fremont and the Court, and every one concerned in this protracted trial, are anxious

The defence, being furnished with a copy of this paper, said they would prepare and hand in a reply on Monday, to which the Judge Advocate assented.

The cross-examination of Major Gillespie was here, by mutual consent, suspended; and

The Hon, WILLARD P. HALL, a witness summoned in behalf of the prosecution, was called, and duly sworn. The Judge A lvocate said he had no questions to ask Mr. Hall, but had summoned him in compliance with the wishes of the defence, that he might be subjected to cross-examination.

Cross-examination. The Judge Advocate handed to the witness the following original letter from Licut. Col. Fremont to the witness :

"GOVERNMENT H. USE, ANGELES, FEB. 11, 1847. "GOVERNMENT H. USE, ANGELES, FEB. 11, 1847.
"TO HOR. WILLARD P. HALL.
"SIR: The postion I occupy as the chief representative of
the United States Government in California renders it an im-

perative duty on me that I should prudently but with energy

perative duty on me that I should prudently but with energy exert all the power with which I am clothed to retain the conquest we have made, and strengthen it by all means possible.

"The Executive office of California, which, I understand, centres supreme civil and military command in the Territory, was actually assigned me as early as September last, and my entering on the duties of the same was postponed only in consequence of an insurrection that broke out in this portion of the territory, which it took some months to quell; that done, I assumed the office of Governor, as had been previously arranged.

arranged.

"I learn with surprise and mortification that Gen. Kearny, in obedience to what I cannot but regard as obsolete instructions from the Secretary of War, means to question my right, and, viewing my position and claim slear and indisputable, I cannot, without considering myself dereliet to my trust, and unworthy the station of an American officer, yield, or permit myself to be interfered with by any other, until directed to do so by the proper authorities at home, predicated on full and so by the proper authorities at home, predicated on full and ample despatches that I forwarded to Washington as early as

so by the proper authorities at home, predicated on full and ample despatches that I forwarded to Washington as early as August of last year.

"I require the co-operation, with a view to the important object of preserving the peace and tranquillity of California, of every American citizen and soldier in the territory, and must expressly inhibit from all quarters all arguments and intimations that may tend to weaken my authority, by inducing the belief that my present position is an act of usurpation, unjust, and will not be canctioned by my Government.

"Intimations, not perhaps susceptible of positive proof, have reached in that you were using your talents and high character as a member of the American Congress, in your intercourse with the citizens of this place and the troops under my immediate command, to raise doubts, if not questioning altogether the legimacy or validity of my tenure of office.

"I leel myself constrained, therefore, in obedience to the behests and high interests of my Government, as well as the respect I cherish for the position you occupy, to inquire of you in frankness whether the intimations alluded to have any foundation in fact or truth.

tion in fact or truth.
"Cherishing a confident belief that you must, on reflection, "Cherishing a consident belief that you must, on reflection, concur with me in thinking that at this juncture any move calculated to weaken me, or embarrass, must be inexpedient and improper, I trust a frank negative answer from you will dissipate my doubts, and admonish me that the inquiry I have made

was altogether unnecessary.
"With considerations of high respect, I am your obediens,"
J. C. FREMONT,
servant,
"Governor of California."

Question. Did you consider this letter as designed by Gov. Fremont "to persuade and incite you to aid and abet him (Gov. F.) in his resistance and mutiny against his superior officer, Brig. Gen. Kearny, and prevent you from supporting Gen. Kearny's lawful authority

Answer. I did not so consider it. Question. What was the state of the country when you eceived this letter from Gov. Fremont, in point of quiet and tranquillity, or otherwise ? Answer. The country was quiet and peaceable.

Question. Did Major Cooke ever admit to you that he was the author of an article in the Missouri Republican signed

The Judge Advocate said this question seemed to him liable to the same objection as a like question heretolore put to Ma-jor Cooke, which the Court rejected. The Court being about to be cleared, the defence said they

would not press the question. They were willing to conside it as ruled out. A member doubting whether the question could remain on the record, its answer not being given, the Court was cleared. When the doors were again opened the following decision was

"The Court decided that a party eannot, with due respect to the decisions of the Court, repeat what the Court has before deliberately decided to be inadmissible."

Lieut, Col. Fremont presented a paper stating-"That, since the Court had gone into closed session, he had learned from the witness that Major Cooke had not informed him that he (Cooke) was the author of the article referred to, signed "Justice," Lieut. Col. Fremont made this statemen because he did not wish a salse inference to arise from his question; and, as his justification for offering the question, he states that it was founded on information from others, and not from Mr. Hall."

Question. What position, civil or military, did you occupy Answer. I was a private in the 1st regiment, company C,

Missouri mounted volunteers.

Question, (by the Court.) What did you consider to be the purport and object of the letter of Lieut. Col. Fremont to you, articularly of the words: "I cannot, without considering my-self derelict to my trust, and unworthy the station of an American officer, yield, or permit myself to be interfered with by any other, until directed to do so by the proper authorities at home, predicated on full and ample despatches that I forwarded to Washington as early as August of last year. I require the co-operation, with a view to the important object of preserving the peace and tranquillity of California, of every American citizen and soldier in the territo-Whom did you consider as meant by the words "any other;" and were you included in the required "co-opera

Answer. I considered the object of the letter to be that which is stated by Lieut. Col. Fremont in the letter; and that he meant to avow in that letter that he would not permit any one to interfere with him. I have no idea as to whom he meant by the expression "any other." I supposed it was merely a general expression. I do not know that he alluded to any one in particular. As to the expression "I require the co-operation of every American citizen and soldier in the I never paid any particular attention to it; I did t place any particular construction upon it at the time. Mr. Hali was here discharged from further attendance as a

WILLIAM BROOM, a witness called on the part of the defence, was duly sworn.

Licut. Col. Fremont here put in a paper stating that he

considered Com. Stockton's testimony so full on all the points to establish which this witness had been called that he had no question to put to him, but turned him over to the prosecution r cross-examination.

The Judge Advocate said he had no question to propound

the witness; and Mr. Broom was the eupon discharged. Lieut. Col. Fremont here read the following paper: Mr. President: In examining the charges and specifica

secuted, but only as evidences of another crime, to wit

pear to him to be presented as crimes, in themseres, to be prosecuted, but only as evidences of another crime, to wit, the assumption of the title and power of Governor of California. If this should be the case, (and of this Leut. Col. F. does not undertake to judge,) be suggests that it may shorten the labors of the defence if the Judge Advocate should so state, and should give a memorandum, to be entered on the record, of the specifications so intended.

"In making this request, Lieut. Col. Fremont takes leave to say that it is not his desire to escape either present or future trial for any thing contained in the specifications; and therefore hereby offers to make matter of record this, his neclanation, that, in the event that the Judge Advocate should be permitted, or directed, to give the memorandum which this application supposes to be consistent with the facts of the case, he (the said Lieut. Col. F.) will never plead in har, either autrefois convict, or autrefois acquit, (as the case might be, under the issue of this trial,) to any future prosecution upon matter charged in the specifications which may now be specified and excepted in the memorandum, if given.

"J. C. FREMONT,

"Lient. Colonel Mounted Riffes."

And F. V. Grav, a Lieutenant of the Navy, a witness sum-

AND. F. V. GRAY, a Lieutenant of the Navy, a witnessummoned on the part of the defence, was next called; and, hav ing been duly sworn, testified as follows: Question. Please to state your position under Commodore

tockton while at San Diego.

*Answer. I was his aid, and one of the lieutenants on board

he Congress.

Question. Did you hear Commodore Stockton offer to go as Gen. Kearny's aid, and did you hear Gen. Kearny offer to go as Com. Stockton's aid ?

Answer, I did. Question. Did you hear the address of Commodore Stockton to the officers at the time the command of Licut. Rowan was given to Gen. Kearny and, if so, state what occurred. Answer. I was present on the occasion referred to-heard Com. Stockton confer the command of the forces Gen. Kearny, reserving to himself the office of commander in-chief. Com. Stockton assembled several of the officers, and said to them : " Gentlemen, Gen. Kearny has kindly offered to go with us; public duty requires that I should ap point him to the command of the forces. You will obey

These were the words he used, as nearly as can recollect. Question. Did you hear Com. Stockton direct the guns ould not be fired till the river was crossed

m accordingly, reserving to myself the office of command-

The Judge Advocate wished the Court to be cleare : | 101 the defence thereup n withdrew the question.

Question. Did you bear an order, from Com. Stockton on
the 8th of January, in the field, to Gen. Kearny? if so, state

the order and all the circumstances.

Answer. I did bear an order from Com. Stockton to Gen. Kearny, on the 8th January, on the field of battle. The enemy had been observed to withdraw his guns from the height modore directed me to go to Gen. Kearny and say to send a square and field-piece immediately up on the height, prevent the enemy's returning with their guns. I went and gave him the order and, on my return to Com. Stockton, observed the division or square of Gen. Kearny moving to-

mander-in-chief?

Question. Do you recollect the words and manner of your delivery of the order ? Did you deliver it so that Gen. Kearny oust have received it as an order, or merely as a suggestion Answer. I carried it as an order, in the usual respectful way. How Gen. Kearny received it, I, of course, cannot say. He did not show, by his manner, that it was disagreeable to him, according to the best of my recollection. Here the witness retired, (but is not, as yet, discharged.)
The Judge Advocate stated that the President of the Court

had received a letter from Lieut. Col. Emory, making appli estion to be discharged from further attendant Further time was taken, both by the Court and by the de

ence, to determine whether they would consent to the re The Court then adjourned to Monday, 10 o'clock.

MONDAY, DECEMBER 13 .- THIRTY-SECOND DAY. The Court met pursuant to adjournment; all the nembers in attendance.

Hon. Mr. Harr, M. C., asked leave to make an explanation in reference to his testimony delivered on Saturday. Leave being granted, Mr. Hall said, on looking over the report in the National Intelligencer this morning, I find that the second question there recorded is different in form from what I supposed it to be when I gave my answer. The re-port is, I believe, correct. The question put to me was this port is, I believe, correct. The question put to me was this:

"Question, (by the Court.) What did you consider to be
the purport and object of the letter of Lieut. Col. Fremont to
you, particularly of the words: 'I cannot, without considering myself dereliet to my trust, and unworthy the station of
an American officer, yield, or permit myself to be interfered
with by any other, until directed to do so by the proper authorities at home, predicated on full and ample despatches that
I forwarded to Washington as early as August of last year. I
require the co-operation, with a view to the important object
of preserving the peace and tranquillity of California, of every
American citizen and soldier in the territory?' Whom did
you consider as meant by the words 'any other;' and were
you included in the required 'co-operation'?'"

To which I replied:

To which I replied: which is stated by Lieut. Col. Fremont in the letter; and that he meant to avow in that letter that he would lot permit any one to interfere with him. I have no idea as to whom he meant by the expression 'any other.' I supposed it was merely a general expression. I do not know that he alladed to any one in particular. As to the expression 'I require the co-operation of every American citizen and soldier in the territor never paid any particular attention to it; I did not place any ticular construction upon it at the time."

I understood the clause stated in the question to be this I cannot suffer myself to be interfered with by Gen. Kearny or any other." If the question had been as I understood to be, my answer would have been as it row stands recorded ; but, as it is, I answer, that I understood the words "any other" to refer to Gen. Kearny. Question. Was Gen. Kearny there at the time !

Answer. He was not. Question. Do you know where he was, and whether Gov. Fremont knew where he was?

Answer. I cannot say where he was at any particular point of time. I knew he had gone in a vessel up the coast, and I expected him down in a few days. It is impossible for me to

ay whether Gov. Fremont knew or not. Question. Do you know when Governor Fremont expected Answer. I do not. Question. At what time did Gen. Kearny actually come

own to San Diego? Answer. I do not think he ever returned to San Diego. Lieut. Col. Fremont here said he had no further question put to this witness. And none being put by the Court or

udge Advocate, Mr. Hall was thereupon discharged. The Judge Advocate submitted a paper to the Court in re-ply to the note of Lieut. Coi. Fremont presented on Sa-

"The Judge Advocate submits, in answer to the note of Lieut. Col. Fremont, presented to the Court before the close of the session on Saturday, that he does not find in any of the of the session on Saturday, that he does not find in any of the charges or specifications now on trial any ambiguity which can require explanation. Lieut. Col. Fremont refers the Court and Juge Advocate to the charges generally, without distinguishing the specifications which he thinks no aufficiently explicit. The Judge Advocate, therefore, answers generally, and says that he thinks all the specifications direct, explicit, and free from any sort of ambiguity; that the legal offence, in the note alleged. the acts alleged, is, in each and every specification, carefully expressed, and then again defined by the charge under which the specifications are laid. The Judge Advocate says, further, that nothing of criminal accusation is conveyed or any way in

ernor of California by Lieut. Col. Fremont, which is alleged n several of the specifications, from acts done by him in that apacity, the Judge Advocate thinks that the legal offence charged in these acts appears, as in all other cases, to be dis-inetly explained, viz. that the said assumption of the said of-ice of Governor was in contempt and resistance of the lawful authority of General Kearny, was a usurpation of his powers, Lieut. Col. Fremont said the reply was entirely satisfactory

His wish had merely been to shorten the time of the trial, and lessen the labors of the defence. His defence would be on a double ground : first, as to the acts charged ; and, second, as to the question of the governorship.

The Judge Advecate thereupon read a further paper, as

"The Judge Advocate said, if that was the import of the paper submitted by the defence on Saturday, he would say, with permission of the Court, he considers that such acts as with permission of the Court, he considers that such account the purchase of land from Temple, and the order to the collector of San Pedro, come no lurther within the cognizance of the Court than as facts evidencing an assumption of the functions of Governor, alleged to be in derogation of the authority of General Kearny in the specifications where these acts are

The Court was cleared. On its being opened again, the Judge Advocate stated that the Court assented to this paper. Lieut. Col. Frement put in the following paper:

'Mr. President : Lieut. Col. Fremont wishes to make his Mr. President: Lieut, Col. Fremont wishes to make his applogy to the Court, and that of his counsel, fr what appeared to the Court to be disrespect to the Court's decision, in repeating a question which had been ruled out once before. It was the question to the Hon. Mr. Hall, and in relation to Maor Cooke and the article signed 'Justice,' in the Missouri Republican. Licut Col. Fremont and his counsel disclaim all intentional disrespect, and give as a reason for repeating the question, and for wishing to press the inquiry to which it relates, that Lieut. Col. Fremont differs is his recollection from some parts of Major Cooke's testimony, and when he comes to make his own statements in his general defence may feel it to be due to himself to state that difference—especially if automated by comesting which were at the weak the testing. if supported by something shigh may go to weaken the testi-mony of Major Cooke. Among those things which weaken testimony, Licut. Col. Fremont is advised to say that enmity on the part of the witness is one, and making publications in-jurious to the accused is another, and especially when relating to the matter of the accusation; that, in both these points of view, Licut. Col. F. and his counsel believe it to be material and relevant to his defence to show, if such is the fact, that Ma-or Cooke is the author of the article referred to."

Lieut. Col. F. also put in the following paper :

" Mr. President : Lieut. Col. Fremont is instructed by his with resident; Lieuth Control of the saway, or attempting to keep a witness away from a trial, is an offence against the administration of justice in all courts, and may be punished as such; and that in the case of prosecutions, and when such of the saway he gives in evidence in the case of prosecutions.

ce is committed by the prosecutor, it may be given in evi-nce in impeachment of his motives and credit.

'He is advised further to say that the fact that Major Gilespie was not technically a witness in this case at the time of lespie was not technically a wirness in this case at the time of the alleged attempt to keep him away, makes no difference; that Gen. Kearny knew his own design to arrest Lieut. Col. F., and also knew that Major Gillespie, from his intelligence, activity, and long and intimate confection with Lieut. Col. F. in California, must necessarily be an important witness for him, and the degree of that importance incapable of being appreciated until the nature of the charges against Lieut. Col. F. should be known.

ould be known.
Supposing it to be an offence, in any case, and going to the supposing it to be an officine, in any case, and going to the impeachment of indivers and credit in any prosecution in any court, to endeavor to keep away witnesses for the defence, Lt. Gol. F is instructed by his counsel to say that the case now presented, if true, is the strangest which can be imagined. It is the case of a General prosecuting his subordinate for alleged crimes on the coast of the Pacific occan; the subordinate brought home for trial, without a knowledge of a charge ast him, and the prosecution bringing his own witnesses in rain. This would seem to make the case strong enough; other features rise up to aggravate it. It is in evidence but other features rise up to aggravate it. It is in evidence from Mojor Cooke that Gen. Kearny calculated that there would be so trial at present, or for a long time, or a brief trial appen documentary testimony alone; that, for want of evidence from California, Licut. Col. Fremont would probably ask and from California, Licut. Col. Fromont would probably ask and obtain a long postponement of his trial, or would go into trial upon the written testimony at hand. Thus, for want of that testimony, which he had no chance to bring, and to keep away which it is now proposed to submit evidence against General K arny, it was calculated that the charges would hang a long time, during which it sight happen that not only newspaper of the hard by lock which it is the charges would hang a long time. rticles, but books such as this (snowing the second volu Fayette Robinson's second of the war) might be published to enlighten the public upon his juilt and infam; or, going to trial at once, to avoid that consequence, he would be subjected to summary conviction on the papers produced against him

ral has appeared himself in the double character of prosecutor and witness, Lieut. Col. Fremont is instructed by his counsel Major Gillespie (for he was actually prevented from attending till after this trial was begun) is both relevant and material testimony, and should be admitted by any court, and, above all, by a court martial.

at. Col. Fremont is further instructed by his counsel Lead. Col. Fremont is further instructed by his counset to say, that it is no objection to the form of this question because it asks the witness to state the circumstances which induce him to believe that Gen. Kearny interfered to detain him in California, and prevent him from returning to the United States at the same time with Lieut. Col. F. He is advised States at the same time with Lieut. Col. F. He is advised that testimony is divided into positive and presumptive, and that the latter, founded upon circumstances, is always as legal and often more convincing than the former. But the question is not now upon the sufficiency, but upon the relevancy of the testimony offered; and, under this aspect of the question, Lieut. Col. F. is advised that the question is relevant, and applies to that branch of the defence which goes to impeach the matters and the credit of the presentator. tives and the credit of the prosecutor.

* Lieut. Col. F. further says to the Court that if the testi-

mony of M-jor Gillespie is admitted to prove an interference from Gen. Kearny, through Com. Biddle, to keep him, Major Gillespie, away, he will then, and in the wake of that glaring case, attempt to show two others—that of Acting Lt. Louis McLane, of the United States Navy, a Major in the California case, attempt to show two others—that of Acting Lt. Louis McLane, of the United States Navy, a Major in the California battalion, and one of the commissioners in negotiating the capitulation of Couenga; and Midshipman Wilson, a captain in the same battalion, both of them standing in relations to be material witnesses to Lt. Col. F. Both of these officers had the promise of Com. Stockton to return; both of them were certified to the justice from their long absence and hard service; and with the leave of the content of the cont ained for the same purpose that Major G. was, and more ef-cetually; for, being sent to sea, they have not yet reached the Juited States.

"Lieut. Col. Mounted Riflemen."

The counsel for the defence being absent, the Court was about to adjourn, but finally concluded to take up the paper last presented by the defence and act upon it.

Whereupon the Court was cleared, and remained in close session till the hour of adjournment, when the doors were again opened and the Court adjourned.

THESDAY, Dec. 15 .- THIRTY-THIRD DAY. The Court met pursuant to adjournment; all he members present.

The Court was immediately cleared, (to consider, as the Reporter understood,) Col. Fremont's paper presented yesterday. Before leaving the room, however, Lieut. Col. Fremont officers of the California battalion? and where are

ont put in the following:
"Mr. President: Lieut. Col. Fremont submits as an additional circumstance in the case before the Court, that of the alleged detention of Major Gillespie and the two naval officers when the Court decided that the question shall be put. It was mentioned, it appears from testimony of Gen. Kearny in his cross-examination on the 12th day of the trial, that he (Gen. K.) had communicated to Com. Biddle his intention to arrest Lieut, Col. Fremont."

When the doors were again thrown open-The Judge Advocate read a paper as follows :

"In answer to the argument of Lieut. Col. Fremont, to sho

"In answer to the argument of Lieut. Col. Fremont, to show reasons why the Court ought to reverse its decision on the question which it refused to allow put to Capt. Gillespie, the Judge Advocate respectfully submits the following note:

"Col. Fremont proposes to show facts from which to conclude that certain officers in the navy were detained on duty by Com. Biddle, at the suggestion of Gen. Kearny, and thence to infer that the motive of Gen. Kearny in such suggestion was to keep away witnesses from this trial.

"The persons referved to were officers in the public service, and, as such, within the jurisdiction of this Court, and liable to the summons of the Government at the suggestion of the accused. It was not within the power of Gen. Kearny or Com. Biddle to withdraw or withhold them from such summons. The suggestion that the retention of them in this case was with a view to deprive the accused of their testimony on this trial—as it could not by any legal possibility have such effect if the accused should require them here; as the detention was in the accused should require them here; as the detention was in the regular course of public duty, and by the act (the withholding of leaves of absence) of a superior officer, an act which was wholly within his discretion—is a suggestion, not supported by any legal or moral presumption which the facts carry with If Lieut Col. Fremont should show that Com. Biddle de-

ned Capt. Gillespie in California, it would infer nothing the should even prove conclusively that he detained him at the suggestion of Gen. Kearny, it would infer nothing as to the motive of Gen. Kearny. Such suggestions, if they influenced Com. Biddle, must have been good and sufficient reasons to his nind. And how shall this Court distinguish between the public and honest reasons which satisfied Com. Biddle and the several statement of the control of Gen. Kearny et and corrupt ones which are ascribed to Gen. Kearny perated with Gen. Kearny. only proof of corrupt motives in Gen. Kearny must be proof of corrupt motives in Gen. Kearny must be proof of conspiracy between him and Com. Biddle; and of that the proof must be clear and direct. It cannot be reached in the way Lieut. Col. Fremont proposes, by showing such facts as way Lieut. Col. Fremont proposes, sy showing suggests, and which he supposes to raise a presumption against Gen. Kearny. On the contrary, all the legal and moral presumptions which such facts carry with them are the direct opposite. The acts of a public officer in the common duties of his office—acts which he within his proper official discretion—earry presumption of good motives with them. They retion-carry presumption of good motives

are certainly not to be rescived in a court of justice as rationage presumptions of erminal motives, as in this case the act offered in proof was the act of Com. Biddle. To conclude from it any corrupt motive in Gen. Kearny, if he had any influence in it, the proof must be clear of a conspiracy.

"The other circumstances suggested by Licut. Col. Fremont appear to the Judge Advocate in the same light. Midshipmen Wilson and McLane may or may not have had such title of long absence and hard service to return home, as Licut. shipmen Wilson and McLane may or may not have had such title of long absence and hard service to return home, as Lieut. Col. Fremont supposes. They may or may not have had, in this respect, a better claim than Lieut. Radford to the favor of Com. Biddle. Still, if these facts be granted, and notwith-standing that Com. Biddle did detain Mushipmen Wilson and McLane with the squadron and allowed Lieut. Radford to come home, the Court cannot find in any of these circumstances. counstances—nor further in the circumstance referred to that Licut. Radford, who has not been a witness on this trial, is the othersin-law of Gen. Kearny—any legal or moral presump-on whatever that the official action of Com. Biddle in these atters had any reference to this trial. Both Com. Biddle y must have known, as all officers in our serand Gen. K arry must have known, as an oneers in our service know, that under our Government truls are not conducted under surprise and fraud; that every opportunity of decince, all necessary time for preparation, every means to colence testimony, are always allowed. As to the calculation ascribed to Gen. Kearny that, by keeping away these witnesses, Lieut Col. Fremont must either go to trial unprepared or must afford him during the necessary delay of preparation the means to prejudice the public mind by newspaper publications, the Judge Advocate thinks the Court cannot find in such a suggestion any thing sufficiently natural and probable to justify the Court in concluding therefrom any evidence as to the pri-vate motives which influenced the official action of Com. Bid-

or Gen Kearny.
If Lieut, Col. Fremont can impeach Gen. Kearny as a wit-If Lieut. Col. Fremont can impeach Gen. Kearny as a wal-ing the court of the Cour-ing the doubtless to give to it all due consideration and weight. But the Court cannot receive in proof, to that end, circum-tances which carry with them no such inference or conclusion

Capt, GILLESPIF, a witness on the part of the defence, wa reupon again called. Lieut. Col. Fremout put in the following paper t

Lieut. Col. Fremont put in the following paper.

"Mr. President: Lieut. Col. Fremont takes leave to say at the main point relied upon by the Judge Advocate in his ply, to wit, that the public service required Major Gillesie to be detained in California, is probably a mistake of the et, and possibly might be so proved upon the spot by Major J. E. FREMONT, Lieut, Col. Mounted Riflemen. The decision of the Court was read to the witness, viz. that

question offered by the defence might be put. It was acdingly again put as follows:

Question. Do you know of any circumstances which ined you to believe that you were detained in California by

e interference of Gen. Kearny There were circumstances which induced me to ieve I was detained in California by the interference of Gen. Searny, in consequence of my having been informed by Com.
Endle (after he had said that he had "nothing to do with me, nd that I could return to the United States when I pleased," at he had received a note from Gen. K. which induced

Here a member interfered, objecting to the reception of terey until further orders? arsay evidence.

d in regard to Gen. Kearny. The witness resumed: That he had received a letter from ers: that he wanted to avoid any further difficulty between army and navy. I remained in Monterey till further home? army and navy. I remained in Monterey four days after r not to say any thing about Gen. Kearny ; and that he tion would delay my carly arrival in the United States. n) had become my security for the performance

These are all the material circumstances that

Biddle had any knowledge of your wish or intention to come m. Stockton) had become my security for the performance

Here the Judge Advocate stated that, on reflection, he must ject to this hearsay testimony Com. Stockton is here: I cannot say positively as to Gen. Kearny, though I am under the impression that I conversed with him on the

dle said, but not what Com. Stockton said. Question. Please to state the cause, and all the circum-

stances of your going on board the Columbus.

Answer. At about half-past eight o'clock at night, having returned on board the Congress from on shore, I was informed by Com. Stockton's orderly that Lieut. Stanly, of the Co lumbus, wished to see me on deck. Lt. Stanly informed me that he had been ordered on board by Com. Biddle, who said that, having understood I was about to leave Monterey the next morning, ordered that I should not quit the town until further orders; and that he (Mr. Stanly) had been ordered to search for me on shore, had he not found me on board the Congress. Considering this order very harsh and oppressive, after my having made all my preparations to leave Mo for the purpose of preparing for our overland journey, I was induced, although the hour was late, to go on board the Columbus to see Com. Biddle, to obtain, if possible, the revo-cation of his last order. On arriving alongside the Columbus, (it was 9 o'clock P. M.) Col. Mason pushed off in one of olumbus's cutters. I hurried on board, and gave my card to Lieut. Madison Rush, the officer of the deck, who is ed me that I might possibly see the Commodore, as Col. Mason had just left him, Com. Biddle having been aroused from

Question. Did you set out after the departure of Gen. Kearny and Lieut. Col. Fremont? and when did you arrive in Washington?

Answer. It was a month after Gen. Kearny had left that I set out from the Sacramento valley for Washington. I arrived here on the 16th November. Question. What occasioned the delay of a month in your departure from California? Answer. I was collecting animals and the outfits necessary

for such a journey.

Question. Do you know the respective periods that acting Lieut. McLane, Midshipman Wilson, and Lieut. Radford had been out in the service, and whether Midshipman Wilson had not special reasons connected with his own examination. to induce him to wish to come home? Were these gentle-

The Court was cleared.

Answer. I cannot answer positively as to the respective periods that the gentlemen named in the question had been out: my impression is that Mr. McLane had been out over three years: that Lieut. Radford had been out over four years, and that Midshipman Wilson had been in the Pacific between six and seven years. I am not certain as to the exact periods. Midshipman Wilson was very desirous to return to the United States, as his examination was coming on; he being entitled to examination. Midshipmen McLane and Wilson were offi-cers of the California battalion; the former was on board the Columbus when I left San Francisco, and is probably on his nouth sloop-of-war, and is no doubt cruising in the Pacific.

Question. Were you on special service in California ' and learning that fact did Com. Biddle take, or decline to take,

control over you? Answer. I was on special service in California; and on uning that fact Com. Biddle said to me : "I have nothing do with you; you can return to the United States when This occurred when I arrived at Monterey and

assistant adjutant general.

The order was read by the Judge Advocate as follows: orders, "Headquarters 10rn Military Der'r, No. 2. "Monterey, March 1, 1847."
"Il. Lieut. Gillespie, of the Marines, now serving with the

will repair to Washington city and report himself to the nmanding officer of his corps.

By order of Brig. Gen. S. W. Kearny: "H. S. TURNER, "Capt. and A. A. A. General."

A second order from Com. Biddle I received at Ciudad de los Angeles, about the 10th April, by the hands of Major Cooke—Col. Mason having fust arrived from Monterey. It was read as follows : .

"U. S. SHIP COLUMBUS. SIR : By direction of the Secretary of the Navy I have asand the command of the squadron in the Pacific.

Any appointment that you may hold for the performance may duty on shore is hereby annulled, and you will, without

tany duty on shore is nevely annuted, and you will, without elay, repair to this place and report yourself to me on board its ship. Very respectfully, your most obedient, "JAMES BIDDLE."
"Lieut. A. H. GILLESPIE, U. S. Marine Corps."
The third order from Com. Biddle I received by the hands Lieut, Sherman, acting aid to Gen. Kearny, (the General having then just arrived from Monterey,) at the same place, and about the 7th of May. It was dated on the 4th. It was

"U. S. SHIP COLUMBUS, "SIR: Upon receipt hereof you will forthwith leave the Peublo de los Angeles and repair to San Pedro, and report ourself to Lieut, Comm. Bailey for a passage to this place in

Lexington.
On your arrival here report to me on board this ship. "Respectfully, your most obedient, "JAMES BIDDLE, "Lieut. A. H. Gillespie, U. S. Marine Corps."

Question. Do you know whether Ciudad de los Angeles as the seat of Government for California when Lieut. Col. Premont succeeded Com. Stockton as Governor, and how Answer. It was the seat of Government for California at e time referred to. How long it had been so I cannot say ;

I do not recollect at this moment; it was so for a considerable Question. Do you know that public horses were taken by der of Gen. Kearny, and receipts for them refused; that the same was done in regard to other public property; and that the horses so taken may have amounted to a th On the reading of this question the Court was cleared. When the doors were again thrown open, the decision of the Court (as understood by the reporter) was that the question

could not be put. Here the examination in chief rested.

Stockton, not in the city.

Cross-examination by the Judge Advocate. Question. When was it that Com. Biddle told you he had othing to do with you, and that you might return to the United States when you pleased ' Answer. I have already stated it was when I came to Mon-

terey and reported myself to him under his order. Question. After your first interview with Com. Biddle. when he told you he had nothing to do with you, &c., did you remain at Monterey till your second interview with him Answer, I did. I was on board the Congress with Com.

Question. Where were you then going when stopped by the order of Com. Biddle Answer. I was going to the Sacramento valley to make Preparations for our overland journey.

Question. Did Com. Biddle inform you, or do you know

what was the object of Com. Biddle in detaining you at Mon-Answer. Com. Biddle did not inform me; but, telling me Judge Advocate. I admit as evidence what Com. Biddle he had received a note from Gen. Kearny, the inference was that it was Gen. Kearny's wish I should be detained. Question. Do you know whether it was intended to pre-

informed by Com. Stockton that he had the Sacramento valley at that time; and it was generally untoe: Com. Biddle's permission for me to leave; but that derstood that the object was to prevent me from going to the Com. Biddle) required that I should give my word of Sacramento valley in advance of Gen. Kearny; which deten-

home, when you received orders to remain at Monterey

Question. Did you bear that order to Gen. Kearny in your | In a case thus aggravated, and where the Commanding Gene- | Com. Biddle is not. - I will therefore admit what Com. Bid- | subject when I called to pay my respects to him at Los Angeles. Com. Biddle did know, as he had been spoken to on the subject by Com. Stockton, and that I was to make all the preparations for the journey home.

Question. Do you know whether Gen. Kearny had any special object in preventing your journey to the Sacramento

Question. Do you know or believe that it was the intention of Gen. Kearny to prevent your going at that time to the Sacramento valley, and not your coming home Answer. I do believe it was to prevent my going to the Sacra-

mento valley; and from this wish, taken in connexion with the difficulties in California, I have always supposed that he desired to delay my preparations for return to the United States. Question. Was there any way for your return to the United States at that time except with the party of Gen. Kearny? Answer. I never contemplated returning with Gen. Kearny, but with Com. Stockton. Question. Could Gen. Kearny, knowing that you would

not return with him, have known of your returning at all '
Answer. He did, as I suppose. Com. Stockton's intended
return was a public thing; and I made known my purpose that
night, in conversation with the officers, and that I was to leave for the Sacramento valley the next morning, the 1st of June. The cross-examination was here suspended. Question by Lieut. Col. Fremont. Was the

valley the place where you made preparations for your return to the United States, and were you to make preparations also for Commodore Stockton in that valley? and did the delay of these preparations delay the departure of Commodore Stockton? or whener it was after the departure of Gen. Acarmy; or whener you arrived here.

Answer. It was some four days after this conversation that I was permitted to leave Monterey. The conversation took place on Saturday night; Gen. Kearny left on the Monday terey it was my intention to make preparation for the land

terey it was my intention to make preparation for the land journey of Com. Stockton's party (which I commanded) at f Suter's Fort, in the Sacramento valley. The delay of that preparation did most certainly delay the departure of Com. Stockton, on account of the extent of the preparations connected with collecting upwards of one hundred mules and horses, making pack-saddles, and every thing necessary for the preparation of the preparation of the preparations connected with collecting upwards of one hundred mules and horses, making pack-saddles, and every thing necessary for an overland journey.

Here the Court adjourned.

[The Court has been in session every day this week, but we are compelled to defer the remainder of its proceedings for want of room. 1

CONGRESSIONAL.

The reader will find in the following pages all the proceed? ings of particular interest which took place in Congress during the week, except the following, which, being crowded out of their regular place, we make room for here :

A PROPOSITION CONCERNING MEXICO. Mr. HOLMES, of South Carolina, asked the unani-mous consent of the House to present and have printed certain Objections were made, but the resolutions were read as

Whereas this Confederacy was formed for the establishing a perfect union and promoting the general welfare, it become those who are entrusted with regulating the Government so t direct its movements as to perfect that union and advance the

welfare.
And whereas the prosperity, felicity, safety, parhaps national existence, is involved in the invasive war we are now prosecuting against our sister Republic of Mexico, this important consideration should lead us to the adoption of such measures as may result in doing justice to Mexico, and promoting the lasting welfare of the United States. Therefore—

Be it Revolved, That it is inexpedient for the United States

Be il Resolved. That it is inexpedient for the United States
Government so to use its conquests as to extinguish the national existence of Mexico, but so to avail itself of the victories it has achieved as to establish by treaty stipulations a lasting peace with Mexico upon the basis of an entire free trade
between the two Republics, such as exist between the several
States of this Union.

Resolved. That we agree to recede all the territory we have

reported myself to him in obedience to his order. I do not recollect the precise date, it was in the last week in May, and at my first interview with him on board the ship; and not at that when he spoke of having received a note from Gen. Kearny.

Question. Have you any written order or orders referred to in your evidence of to-day and the preceding day? if so, can you produce them?

Answer. The first order was handed to me at Ciudad de los Angeles on the 11th of March by Captain Turner, acting assistant adjutant general.

The order was read by the Ludge Advocate as follows:

Structing a railroad from the United States to the harbor of San Diego, and to any town in New Mexico or California.

Resolved, That it is expedient to keep possession of the Castle of San Juan d'Ulua as a hostage to the fulfilment of

PERSONAL EXPLANATION.

Mr. PETTIT rose and asked leave to make a personal ex-The SPEAKER said it would not be in order except by the general consent of the House.

Such consent being given-Mr. PETTIT said he wished to call the attention of the House and the country to a most puerile, miserable, silly, but not the less false, report of his remarks made yesterday for the Union. He did not know by whom : he knew Mr. Ritchie was the editor, and he held him responsible. He undertook to say that what he should here read as a report of his remarks must be known to every one, whether in the House or out of it, whether he heard him or not, to be utterly false, and inentionally so. No man understood him to say as follows ; no

man could have understood him so: "If any man more than another could claim the honor of having raised Mr. Polk to the Presidential chair, he could do it. If any one more than another could claim the introduction of the tariff of 1846 as his own measure he could do it."

A miserable, puerile attempt at misrepresentation, (said Mr P.) Such men are beneath those whom I described yesterday as without the power of reason. They are beneath contempt. Mr. P. read a further extract : "In short, if any one, then he himself might claim the hono

having brought about all the great measures of reform which the Government had recently adopted—from the great financial measures which had been adopted, and the improvements in the commercial interests of the nation, to the annexation of Texas and the glorious display of their arms upon the battle-fields of Maria. Now, surely he need not consume the time of the House to

repeat that the man who wrote this knew it to be a falsehood. He did not understand me so. He could not have understood me so. No man, young or old, near me or remote from me could have understood me to say any such thing. It is a miserable attempt of that paper to traduce, vilify, and misrepresent a man who cannot in every thing agree with its "vener able" trash! [Laughter.] Sir, had I time, and the indulgence of the House would

permit, I should like to read and comment upon an article in this morning Union under the editorial head; but I have not time. [Cries of "go on, go on."]
Ob, no, (said Mr. P.) However, I will say that, after going on at some length in this article to discuss the subject of the message, Mr. Ritchie says, thoroughly as he under-

stands the subject himself, (beginning as far back as the Virginia resolutions of 1798, I suppose,) [a laugh,] that Mr. Polk understands it far better than he! Masterly as are his abilities, and extensive as is his knowlege, that the President surpasses him! Well, (said Mr. P.) that may be a wonder to him, but it is not to me. He (Mr. Ritchie) then goes on with a long string about the unconstitutionality of pulling out a stick, or a stone, or a snag from the way where our army is being marched, or where we are transporting munitions of war; but, finally, at the tail of the article, he surrenders the question, and begs members of Congress to do what he (Mr. P.) said yesterday he was willing to do. He had said he was unwilling now to vote a dollar for such a purpose; that he was unwilling to go on at this time, when we were involved in war, and needed all the money we could raise, and more, to carry it on, to vote large appropriations even for such works of internal improvement as he believed this Government clearly had the power to make. He was willing to forego appropriations for works of this character now; but he would not be stultified from any such source, and told he had no right to vote for them; that this Government had no right to make them. It did seem that Mr. Ritchie, and perhaps those whom he eulogizes; that the President and many who agreed with him, were incapable of discriminating between power and policy, between the existence of a power and the propriety of exerciv scemed to insist that if we have sing it at this time; and the the power to do this thing, we must from necessity go on now and do it, and involve the country in all manner of expenditure and ruin. Mr. P. thought it was not so difficult a matter to understand the distinction between a power and the exercise of that power. It might not be politic or proper to exercise it now, but he would not consent that a document from the Executive should be placed on the records of the House which would cut them off forever from sustaining works of in ternal improvement of any kind, by denying to the Government Now, how Mr. Ritchie would report him again he did not

know or care; it was too contemptible to be noticed.